**IN THE HIGH COURT OF UTTARAKHAND**
**AT NAINITAL**

**Writ Petition No. 1127 (S/S) of 2007**

Piyush Kapil S/o Late Shri R.C. Kapil
Posted as Junior Assistant, District Ayurvedic and Yunani Office Almora, Presently attached with District Ayurvedic and Yunani Office Nainital at Haldwani ------- Petitioner

Versus

1. State of Uttarakhand through Secretary, Medical and health Services, Uttarakhand, Dehradun
2. Director, Ayurvedic and Yunani Services, Uttarakhand, Dehradun
3. District Ayurvedic and Yunani Officer, Almora

------- Respondents

**Hon'ble M.M. Ghildiyal, J.**

Heard Sri R.S. Bisht, learned counsel for the petitioner and Sri N.P. Shah, learned Standing Counsel State of Uttarakhand for the respondents.

By means of this writ petition, the petitioner has prayed for the following reliefs:

1. Issue a writ, order or direction in the nature of certiorari quashing the impugned suspension order dated 29.05.2007 (annexure No. 1) passed by the respondent no. 2.
2. Issue any other suitable writ, order or direction, which this Hon'ble Court deem fit and proper under the facts and circumstances of the case.
3. Award the cost of petition in favour of the petitioner.

The stand of the petitioner is that initially he was appointed as Junior Assistant and was transferred to Regional Ayurvedic and Yunani Office, Nainital on 30.04.1990. Vide order dated

30.06.1992, the petitioner was terminated, against which the petitioner has approached this Court and by the order of this Court dated 08.07.2002, the petitioner was reappointed by the respondent authorities. In the year 2004, he was transferred to District Ayurvedic and Yunani Office, Almora. Now, by the impugned order dated 29.05.2007, petitioner has again been suspended by the respondents for the charge of involvement/association in the alleged illegal appointment/ adjustment of 10 class IV (P.T.S.) employees in the department in District Almora.

Learned counsel for the petitioner has submitted that neither the petitioner was Appointing Authority nor was nominated as member by the appropriate authority for the Selection Committee. Learned counsel for the petitioner has further submitted that the petitioner was never assigned the work relating to Class IV employees establishment as he was having the charge of account, Medical Officer Establishment etc. as directed by the District Ayurvedic and Yunani Officer.

Learned Standing Counsel has submitted that a charge sheet was also issued to the petitioner on 02.07.2007, in which the petitioner was found guilty for preparing the treasury form (Form-1) regarding the information of newly appointed employees.

Learned counsel for the petitioner has submitted that the petitioner has filled the treasury form of the newly appointed employees in accordance of para 11 of the Government Order dated 06.12.2001 and presented it before District Ayurvedic and Yunani Officer, Almora for further inspection/verification and

signatures, and thus, the petitioner can not be said to be the guilty of the aforesaid illegal appointments.

During the course of arguments, learned counsel for the petitioner has submitted that the petitioner may be permitted to make representation, raising all his grievances, and has also alleged that considering all these circumstances, petitioner should not have been suspended.

In the circumstances, I deem it fit and proper to direct the petitioner to make a representation before the appropriate authority within a period of 10 days from today and the authority concerned is also directed to decide the representation of the petitioner within a period of two weeks from the date of production of a certified copy of this order along with the representation, if any, before him. While passing the order on the representation of the petitioner, the respondents shall also consider the inquiry report submitted by the Inquiry Officer, if the same has already been submitted.

With this direction, the writ petition is finally disposed of. No order as to costs. All the pending applications stand disposed of.

**(M.M. Ghildiyal, J.)**

**21.08.2007**
**VKS**